

Essex Conservation Commission

October 4, 2005 – Minutes

Meeting held at the T.O.H.P. Burnham Public Library

Present: Wallace Bruce, Chairman, Robert Brophy, Elisabeth Frye, Stephan Gersh, Philip Lake (7:45 p.m.), Shirley Singleton, Philip Caponigro (8:45 p.m.);

Meeting called to order at 7:34 p.m.

A public hearing was held at 7:35 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by James Braier for a septic system upgrade at 42 Lakeshore Drive.

Mr. Braier was asked whether the upgrade was in the same site as the existing system. He said it was not and pointed out where the existing system was. The new system will be moved further away from the Lake and noted that the present system was failing so the upgrade was mandatory. The existing sidewalk will be removed. Stephan Gersh said the house is a barrier to Chebacco Lake.

Stephan Gersh moved to close the public hearing for James Braier, 42 Lakeshore Drive, seconded by Shirley Singelton, with the Board voting unanimously in favor.

Stephan Gersh moved to approve the upgrade of a septic system for James Braier, 42 Lakeshore Drive, as submitted in the Notice of Intent, seconded Robert Brophy, with the Board voting unanimously in favor.

A request for a Certificate of Compliance was made by 1) Connie and James Behnke, 128 Apple Street, 2) Theodore Smick, 31 Lufkin Point Road, and 3) Josepha and William Febiger, 83 Forest Avenue.

Stephan Gersh moved to issue a Certificate of Compliance to Connie and James Behnke, 128 Apple Street, certifying that work done under Order of Conditions D.E.P. File Number 021-0482 has been satisfactorily completed, seconded by Robert Brophy, with the Board voting unanimously in favor.

Stephan Gersh moved to issue a Certificate of Compliance to Theodore Smick, 31 Lufkin Point Road, certifying that work done under Order of Conditions D.E.P. File Number 021-0478 has been satisfactorily completed, seconded by Robert Brophy, with the Board voting unanimously in favor.

Stephan Gersh moved to issue a Certificate of Compliance to Josepha and William Febiger, 83 Forest Avenue, certifying that work done under Order of Conditions D.E.P.

File Number 021-0475 has been satisfactorily completed, seconded by Robert Brophy, with the Board voting unanimously in favor.

A public hearing was held at 7:50 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Peter Van Wyck for the construction of three houses and appurtenances at Low Land Farm, Assessors Map 9, Parcel 12(3).

Mr. Van Wyck told the Board the purpose of this Notice of Intent is that one of the houses will be moved closer to the wetland area, as the topography of the site is of more interest to him if it is moved slightly to that area. He said he was not sure whether he would move it as far out as he has it marked on the plan, but he did not want to get into a position of not being able to do it, so he thought the best thing to do was to file a Notice of Intent as he would potentially be going into the buffer zone. The Board reviewed the prior plan for the project. Philip Lake asked Mr. Van Wyck if he had received Board of Health approval for the septic plan. Mr. Van Wyck told him the Board of Health is in the process of reviewing the plan and he will be getting the approval. Philip Lake then asked if the plan had gone to the Planning Board for Site Plan Review. Mr. Van Wyck said he has not designed the house, but the Planning Board does have a right to review anything over 2,500 square feet. Philip Lake noted that the plan, therefore, was still subject to Site Plan Review. There was a question as to whether the lot on the new plan was different to the plan dated May 25, 2005 and signed by the Commission. Mr. Van Wyck said it should not be. Stephan Gersh asked whether the septic system had been approved on Lot 3. Mr. Van Wyck said it had not, but they are going through the final process. As the septic system was being designed for three houses, the Board of Health wanted an extra deep hole perc that they did about a month ago, but then Board of Health wanted a deep hole perc on the reserve system which was done last week.

Stephan Gersh moved to continue the public hearing for Peter Van Wyck, Low Land Farm, Assessors Map 9, Parcel 12(3), to November 1, 2005 at 7:55 p.m., subject to the final sign-off by the Board of Health and Planning Board, seconded by Shirley Singleton, with Robert Brophy, Shirley Singleton, Stephan Gersh and Wallace Bruce voting in favor; Philip Lake and Elisabeth Frye abstained.

Peter Van Wyck said he wrote a letter to each of the Board members regarding the mowing of the fields at Low Land Farm, so that they would know his feelings on the subject. As this particular subject was not on the agenda, the Board felt they could not discuss it at this time, but would accept the submittal of the letter that Mr. Van Wyck had written.

Tom Pallazola, 60 John Wise Avenue – Robert Griffin, Griffin Engineering, together with Tom Pallazola met with the Board. Mr. Griffin showed the Board a plan that had been prepared for submittal to the Planning Board for the proposed re-use of the existing

Hardy's Hatchery building. There is a compost facility to the rear of the building that consists of leftovers and organic material from the Hatchery operation, which had been approved by the Commonwealth of Massachusetts under an agricultural program. The proposed site plan shows an expansion of the gravel parking area for the construction vehicles and for storage of stone dust, mulch and materials that the Pallazolas need for their landscaping business. The site plan has a grass swale to capture any run-off from the proposed gravel parking area and will be run under the gravel roadway that leads to the composting area, and then go to a level spreader. Mr. Griffin said he feels the combination of the grass swale, the gravel parking lot, level spreader and large distance between this area and the wetlands are very respecting of the wetland resource that exists on the property, and provides a good amount of buffer to filter the run-off prior to it getting to the resource area. The wetlands have been flagged that consist of a wet meadow. All of the proposed work is well over 100-feet from the wetland resource, with no new impervious surfaces. They were asked by the Planning Board to put up some screening so evergreens have been proposed. The Planning Board also asked that they address the floor drains in the building, so they have agreed to seal up any floor drains. The inside of the building will not be used for anything other than office space at this time, so the floor drains can be sealed. Mr. Griffin was asked whether the Pallazola's machinery would be maintained on site. Mr. Griffin said the Pallazola Brothers have their machinery maintained off-site and anything significant is done in a mechanics yard. They are not proposing any roofed structures for maintenance. They would like to park their vehicles there at night, but it is not intended to be a maintenance operation. Stephan Gersh said when this came up on an Eastern Avenue site, it was stated that snow plowing would be involved and with snow plowing there is salted sand, and was told there would be storage of salted sand, loading of it, spreading of it – will that be happening here? Mr. Griffin noted that because of the gravel parking area and the grass swale they have a lot of opportunities to capture the sand, and they also will have a large buffer area. Mr. Pallazola said they have five vehicles for snow plowing, with a 2-yard sander. There is no contracting for Mass. Highway. Stephan Gersh asked whether they were considering planting trees along Route 133, as it is a lovely greenway, which the Town would like to preserve. Mr. Griffin said the Pallazolas would be planting trees. The Pallazolas would like to continue the composting, but would use yard waste. There will be no retail operation on site, and no traffic other than their vehicles. Stephan Gersh asked whether they would consider some erosion controls for the compost. The composting area is approximately 30-feet long, 15-feet wide and 6-feet high. Robert Brophy said he did not understand why the Board was so concerned with leaves and grass as composting material – he said he could see the concern over the chicken waste – but if that has gone then he does not have a problem with leaves. He could not see the need to go through the permitting process when it is not called for. Philip Lake said he does not see that anyone could have a problem with grass and leaves, but wondered what else would be thrown on the pile. Mr. Pallazola told him it would be all organic material. Stephan Gersh said the Board should request an RDA be filed as the compost is partly in the buffer zone. Mr. Griffin noted that it is a State approved compost pile and felt an RDA was not necessary.

The Board asked if paperwork could be provided showing this. Mr. Griffin said the recommendation to the Planning Board could be that the Commission does not have any concerns about the site plan as proposed, but if the transportation of compost materials off site to other properties is contemplated then an RDA may be required, at which point the Pallazolas can decide whether or not they want to move the compost area out of the buffer zone. Stephan Gersh said he knows that with a change of use of a commercial property a filing is required. It is an activity in a buffer protected by the Wetlands Act, and this is a commercial enterprise, not a home activity. He added that he is in favor of the proposed project, but must stick to the principal that a filing is required.

A request made by Andrew St. Pierre for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the construction of a 12x34-foot deck to the rear of the existing dwelling at 39 Wood Drive was heard at 8:40 p.m.

The applicant did not attend the meeting. The Board reviewed the Request and plan.

Stephan Gersh moved to issue a negative Determination to Andrew St. Pierre, 39 Wood Drive, for the construction of a 12x34-foot deck, with the condition that hay bales must be placed around the construction area on the Lake side which will be the limit of work, seconded by Philip Caponigro, with the Board voting unanimously in favor.

Elisabeth Frye moved to amend the Minutes of August 23, 2005, Page 6, Line 6 of Paragraph 3, to read “especially in view of...” instead of “especially in lieu of...”, seconded by Philip Caponigro, with the Board voting unanimously in favor.

Approval of Minutes – Elisabeth Frye moved to approve the Minutes of Meetings of January 4, January 18, February 15, March 1, March 15, April 5, April 19, May 10, May 24, June 7, June 21, July 12, August 9 and August 23 of 2005, seconded by Stephan Gersh, with the Board voting unanimously in favor.

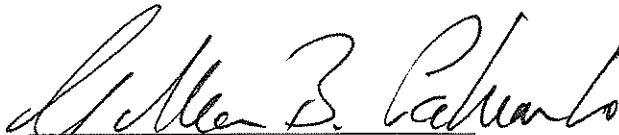
Stephan Gersh said he has two reports – 1) Essex Shipbuilding Museum – Tom Ellis said that D.E.P. was managing the project – they are not. The Essex Shipbuilding Museum has hired an outside engineering firm who is completely in charge of any permitting and communication to the Board about the project. D.E.P. does not have an opinion. 2) Peter Van Wyck has never, except in a casual reference, discussed the mowing of wet meadows with Jill Provencal. Stephan Gersh said he called her regarding this and she said absolutely not. She said wet meadows are BVWs, and unless Mr. Van Wyck can demonstrate an agricultural activity as defined by the Wetlands Act, which he said he did not have, then they cannot be cut. Ms. Provencal felt the idea of boulders was fine and they should be 15 to 20-feet out, but they do not have to follow the exact contours of the two sites. Nobody objected to the loam pile, but to remember that it crosses the BVW. The overseer of the project should make sure that everything is cleaned up when the

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project is completed. Stephan Gersh said he would write up the special conditions and have the Board approve it prior to sending out the Order of Conditions.

Philip Lake moved to adjourn the meeting, seconded by Stephan Gersh, with the Board voting unanimously in favor. Meeting adjourned at 9:00 p.m.

Prepared by:



Gillian B. Palumbo, Administrative Clerk

Attest: